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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,236	10/01/2003	Ryan Clarence Thompson	200209280-1	6410

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EXAMINER
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SIEK, VUTHE

ART UNIT	PAPER NUMBER
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2825

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/676,236

Applicant(s)

THOMPSON ET AL.

Examiner

Vuthe Siek

Art Unit

2825

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30-34 is/are rejected.
- 7) ☒ Claim(s) 1-29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/01/03</u> | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This office action is in response to application 10/676,236 filed on 10/1/2003.

Claims 1-34 remain pending in the application.

#### ***Claim Objections***

2. Claims 1, 2, 11, 16, 18, 23, 28 and 30 are objected to because of the following informalities: using phrase "optional, optionally" makes the claimed limitation vague since it is not sure whether the limitation is part the claimed limitation. Claim 18, lines 10-11, "said distribution settings" should be changed to --said default distribution settings--. Claim 23, lines 7-8, "said distribution settings" should be changed to --said default distribution settings--. Thus, Examiner suggest to delete phrase "optional and optionally". Appropriate correction is required.

#### ***Specification***

3. The disclosure is objected to because of the following informalities: in the specification page 1 and 9-10, related applications information needed to be updated.

Appropriate correction is required.

#### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 30-34 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 6, 7, 8 and 12 of copending Application No. 10/676,859 (US 2005/0076282) in view of Givoni et al. (US 2003/0126517). Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1, 6-8 and 12, teach all claimed limitations except for knob-setting interface comprising a graphical user interface (GUI). Givoni et al. teach a system and method allowing a testing and validation system to test a software application under test (AUT) by traversing a user interface display or windows, in the Graphical User interface (GUI) for the AUT to build a test thread tree which is employed to generate grid, a script, and a report enumerating each test case, where the test is executed by interfacing with the GUI of the AUT. The system first builds the test cases by traversing the window sequence in the processes of the AUT to obtain the expected inputs and outputs. By enumerating the inputs and outputs between the GUI and the AUT, the system executes the generated test cases in an automated manner. Thus, Givoni et al. teach knob-setting interface including a GUI. Therefore, by integrating the system including knob-setting interface including GUI as taught by Givoni et al. a computer system as recited in the claims of copending application, it would have been obvious the claims of the instant application because this knob-setting interface including GUI would automatically generate test cases operable to test a circuit design using a plurality of threads.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Allowable Subject Matter***

6. Claims 1-29 would be allowable if rewritten as suggested to overcome the claim objections set forth in this Office action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vuthe Siek whose telephone number is (571) 272-1906. The examiner can normally be reached on Increase Flextime.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Smith can be reached on (571) 272-1907. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vuthe Siek

  
**VUTHE SIEK**  
**PRIMARY EXAMINER**